

COMMONWEALTH OF KENTUCKY
BEFORE THE PUBLIC SERVICE COMMISSION

In the Matter of:

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| APPLICATION OF KENTUCKY CGSA, INC. FOR |) | |
| ISSUANCE OF A CERTIFICATE OF PUBLIC |) | |
| CONVENIENCE AND NECESSITY TO CONSTRUCT |) | |
| AN ADDITIONAL CELL SITE IN LOUISVILLE, |) | |
| KENTUCKY FOR THE PROVISION OF DOMESTIC |) | CASE NO. 96-172 |
| PUBLIC CELLULAR RADIO |) | |
| TELECOMMUNICATIONS SERVICE TO THE |) | |
| PUBLIC IN JEFFERSON COUNTY, KENTUCKY AND |) | |
| THE LOUISVILLE MSA |) | |

O R D E R

On April 23, 1996, Kentucky CGSA, Inc. d/b/a BellSouth Mobility Inc. ("BellSouth Mobility") filed an application seeking a Certificate of Public Convenience and Necessity to construct and operate a cellular radio telecommunications facility in the Louisville Metropolitan Statistical Area ("the Louisville MSA"). The proposed facility consists of a monopole antenna tower not to exceed 160 feet in height, with attached antennas, to be located at 2017 S. 39th Street, Louisville, Jefferson County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 13' 38.1" by West Longitude 85° 49' 10.96".

BellSouth Mobility has provided information regarding the structure of the tower, safety measures, and antenna design criteria for the proposed facility. Based upon the application, the design of the tower and foundation conforms to applicable nationally recognized building standards, and the plans have been certified by a Registered Professional Engineer.

Pursuant to KRS 100.324(1), the proposed facility's construction is exempt from local zoning ordinances. However, BellSouth Mobility has notified the Jefferson County Planning Commission of the proposed construction. To date, no comments have been filed by the Planning Commission. BellSouth Mobility has filed applications with the Federal Aviation Administration ("FAA") and the Kentucky Airport Zoning Commission ("KAZC") seeking approval for the construction and operation of the proposed facility. The KAZC application has been approved and the FAA decision is pending.

BellSouth Mobility has filed notices verifying that each person who owns property or resides within 500 feet of the proposed facility has been notified of the pending construction. The notice solicited any comments and informed the property owners and residents of their right to intervene. In addition, BellSouth Mobility has posted notice of the proposed construction in a visible location for at least two weeks after filing its application. The Commission received comments from J. Michael Godfrey on behalf of the Housing Authority of Louisville regarding the proposed construction. As a result of discussions between Mr. Godfrey and BellSouth Mobility, the application was amended on September 10 and October 3, 1996. The amendment proposed locating the tower on the same site but abutting the Louisville Gas and Electric Company facilities to the north. Mr. Godfrey was notified that if a motion for intervention and a hearing was not filed by October 29, 1996, the case, as amended, would stand submitted to the Commission for a decision based on the existing evidence. On October 30, 1996, Mr. Godfrey filed a letter requesting intervention on behalf of the Housing Authority. However, Mr. Godfrey was notified that the Commission was unable to grant his request for intervention on behalf of the Housing Authority because intervening on behalf of a corporation in a Kentucky administrative

proceeding constitutes the practice of law which requires representation by an attorney. A copy of the Commission's regulation governing intervention was sent to Mr. Godfrey and he was notified that upon filing of a motion to intervene by his attorney, the Commission would schedule this matter for a hearing. To date, no further comments or motions have been filed with the Commission.

Pursuant to KRS 278.280, the Commission is required to determine proper practices to be observed when it finds, upon complaint or on its own motion, that the facilities of any utility subject to its jurisdiction are unreasonable, unsafe, improper, or insufficient. To assist the Commission in its efforts to comply with this mandate, BellSouth Mobility should notify the Commission if it does not use this antenna tower to provide service in the manner set out in its application and this Order. Upon receipt of such notice, the Commission may, on its own motion, institute proceedings to consider the proper practices, including removal of the unused antenna tower, which should be observed by BellSouth Mobility.

The Commission, having considered the evidence of record and being otherwise sufficiently advised, finds that BellSouth Mobility should be granted a Certificate of Public Convenience and Necessity to construct and operate the proposed facility in the Louisville MSA under its currently approved tariff.

IT IS THEREFORE ORDERED that:

1. BellSouth Mobility is granted a Certificate of Public Convenience and Necessity to construct and operate a monopole antenna tower not to exceed 160 feet in height, with attached antennas, to be located at 2017 S. 39th Street, Louisville, Jefferson County, Kentucky. The coordinates for the proposed facility are North Latitude 38° 13' 38.1" by West Longitude 85° 49' 10.96".


2. BellSouth Mobility shall file a copy of the final decision regarding the pending FAA application for the proposed construction within 10 days of receiving the decision.


3. BellSouth Mobility shall immediately notify the Commission in writing, if, after the antenna tower is built and utility service is commenced, the tower is not used for a period of 3 months in the manner authorized by this Order.

Done at Frankfort, Kentucky, this 22nd day of January, 1997.


PUBLIC SERVICE COMMISSION


Chairman


Vice Chairman


Commissioner

ATTEST:


Executive Director